ESTTA Tracking number:	**ESTTA326364**
Filing date:	**01/12/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	ChoiceStream, Inc.
Granted to Date of previous extension	01/20/2010
Address	210 Broadway 4th Floor Cambridge, MA 02139 UNITED STATES

Attorney information	Phi Lan M. Tinsley K&L Gates LLP State Street Financial Center One Lincoln Street Boston, MA 02111 UNITED STATES tmboston@klgates.com, philan.tinsley@klgates.com Phone:6172613224

Applicant Information

Application No	77745840	Publication date	09/22/2009
Opposition Filing Date	01/12/2010	Opposition Period Ends	01/20/2010
Applicant	RichRelevance, Inc. 275 Battery St., Suite 1150 San Francisco, CA 94062 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 2007/05/02 First Use In Commerce: 2007/07/04
All goods and services in the class are opposed, namely: Application service provider (ASP) featuring software which provides collaborative filtering and optimization services to enhance online shopping and ecommerce sites

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3657301	Application Date	12/23/2008
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	REALRELEVANCE		

Design Mark	
	RealRelevance
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2006/01/29 First Use In Commerce: 2006/01/29
	Targeted advertising services, namely, promotion of the goods and services of others by means of a global computer network; Advertising services, namely, promoting the goods and services of others by providing recommendations based on consumer's click and purchase data; promoting the goods and services of others by providing a web site at which users can link to information pertaining to the goods and services offered by advertisers; dissemination of advertising matter; dissemination of advertising matter for others via the Internet

U.S. Registration No.	3378718	Application Date	08/22/2006
Registration Date	02/05/2008	Foreign Priority Date	NONE
Word Mark	REALRELEVANCE		
Design Mark			
	RealRelevance		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2006/01/29 First Use In Commerce: 2006/01/29		
	providing online non-downloadable software for use by retailers and online entertainment providers in providing goods and services that are customized to user preferences		

Related Proceedings	U.S. Registration No. 3,471,575

Attachments	77639087#TMSN.jpeg (1 page)(bytes)
	78957619#TMSN.jpeg (1 page)(bytes)
	BOS-#1365634-v1-Notice_of_Opposition_(358369-1_01_11_2010_07_35_11_PM).PDF (35 pages)(1035084 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/philan m. tinsley/
Name	Phi Lan M. Tinsley
Date	01/12/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No.: 77/745,840
For the mark: RICHRELEVANCE
Published in the Official Gazette on September 22, 2009

ChoiceStream, Inc.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.
	)	
RichRelevance, Inc.,	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

ChoiceStream, Inc. ("Opposer") a corporation organized and existing under the laws of

Delaware, located at 210 Broadway Street, Cambridge, Massachusetts 02139, believes it will be

damaged by the registration of the mark RICHRELEVANCE as shown in the above-identified

Trademark Application Serial No. 77/745,840 ("Opposed Application"), filed May 27, 2009 by

RichRelevance, Inc. ("Applicant"), and hereby opposes the registration of the same.

As grounds for the opposition, Opposer alleges that:

1.   Opposer is in the business of creating, marketing, distributing and selling

customized cross-marketing and advertising technology and services to optimize retailers' online

sales and e-commerce sites.

2.   Since 2002 Opposer has created, marketed, distributed and sold in interstate commerce targeted advertising and marketing technology, *see infra*, similar or identical to the goods and services identified in Trademark Application Serial No. 77/745,840.[1]

3.   Since at least as early as 2006 through the present day, Opposer has sold and continues to sell its customized cross-marketing and advertising technology and services in commerce under the trademark REALRELEVANCE® in the United States. See attached at **Exhibit A**, printout of products sold in commerce under the trademark REALRELEVANCE®·

4.   Opposer has received industry recognition and awards for its innovative and revolutionary advertising and marketing technology. In 2005, Opposer won the Massachusetts Innovation and Technology Exchange ("MITX") for Customer Relationship technology for its innovative one-to-one personalization and recommendation technology. In 2009, Opposer was again recognized by MITX for its REALRELEVANCE® targeted advertising product which creates personalized display ads and landing pages for each consumer. See attached printouts from MITX website dated January 11, 2010 at **Exhibit B**.

5.   Opposer owns all right, title and interest in and to the REALRELEVANCE® mark and United States Registration No. 3,378,718, in International Class 42 for "providing online non-downloadable software for use by retailers and online entertainment providers in providing goods and services that are customized to user preferences." This registration, with a date of first use in commerce of January 29, 2006 was granted on February 5, 2008 and is valid and

---

[1] Applicant's U.S. Registration No. 3,471,575 for the mark RICHRELEVANCE in International class 35, registered on July 22, 2008 for "internet advertising services; advertising services" is the subject of a Petition for Cancellation action filed by the Opposer simultaneous with the filing of this Opposition.

subsisting on the Principal Register. <u>See</u> attached copy of the registration certificate at **Exhibit C**.

6.   Opposer also owns all right, title and interest in and to the REALRELEVANCE® mark and United States Registration No. 3,657,301, in International Class 35 for "[t]argeted advertising services, namely, promotion of the goods and services of others by means of a global computer network; Advertising services, namely, promoting the goods and services of others by providing recommendations based on consumer's click and purchase data; promoting the goods and services of others by providing a web site at which users can link to information pertaining to the goods and services offered by advertisers; dissemination of advertising matter; dissemination of advertising matter for others via the Internet." This registration with a date of first use of January 29, 2006 was granted on July 21, 2009 and is valid and subsisting on the Principal Register. <u>See</u> attached copy of the registration certificate at **Exhibit D**.

7.   Prior to the filing of the Opposed Application, or any earlier date of actual use of the mark shown in the Opposed Application upon which Applicant can rely, Opposer has used the REALRELEVANCE® mark in commerce in the United States on and in connection with the foregoing goods and services. Moreover, by virtue of the excellence of the products and services sold under the REALRELEVANCE® mark and the valuable reputation and goodwill associated with the mark, the REALRELEVANCE® mark is well known in the United States.

8.   Upon information and belief, Applicant is a corporation established under the laws of Delaware and having an address at 275 Battery Street, Suite 1150, San Francisco, California.

9.   Upon information and belief, Applicant creates sells and/or distributes, *inter alia*, software which provides collaborative filtering and optimization services to enhance online

- 3 -

shopping and ecommerce sites. See Applicant's online web page describing its company, printed on January 11, 2010 at **Exhibit E**.

10. Notwithstanding Opposer's prior right in and to the REALRELEVANCE® trademark, Applicant on information and belief, on May 27, 2009, Applicant filed an actual use application, for the mark RICHRELEVANCE for "application service provider (ASP) featuring software which provides collaborative filtering and optimization services to enhance online shopping and ecommerce sites" in International Class 42.

11. On information and belief, David Selinger, Applicant's Chief Executive Officer and Co-Founder, and Tyler Kohn, Applicant's Vice President of Engineering and Co-Founder were consultants with ChoiceStream. Selinger and Kohn assisted in developing cross-marketing technology and services for Opposer from August 2006 to May 2007, during which time Opposer used the mark REALRELEVANCE® in connection with its products. See Doug Feick Affidavit at **Exhibit F**.

12. Opposer contacted Applicant, namely Selinger, Todd Pearson, Applicant's Chief Customer Officer, and/or Bill Growney, Applicant's General Counsel by telephone, on or about November 2008, January 2009, February 2009, and October 2009. During these phone conversations, Opposer discussed the strong likelihood of confusion between the REALRELEVANCE® trademark and the mark RICHRELEVANCE in the Opposed Application. In particular, Opposer raised the potential for injury and confusion to ChoiceStream given that Applicant markets and sells products and services under the opposed mark RICHRELEVANCE to the same customers and in the same industries as those who purchase and/or use the products under the mark REALRELEVANCE®.

13.   Upon information and belief, when Applicant adopted the mark shown in the Opposed Application it already was aware of Opposer's well-known mark and adopted the mark shown for the purpose of (a) launching and promoting its products by siphoning Opposer's valuable reputation and goodwill; and/or (b) suggesting an affiliation between it and Opposer through a license or otherwise.

14.   The Opposed Application Serial No. 77/745,840 was published in the Official Gazette on September 22, 2009. See attached TARR printout on January 11, 2010 at **Exhibit G**.

15.   The RICHRELEVANCE mark shown in the Opposed Application so resembles Opposer's registered REALRELEVANCE® that it is confusingly similar in sight, sound and meaning.
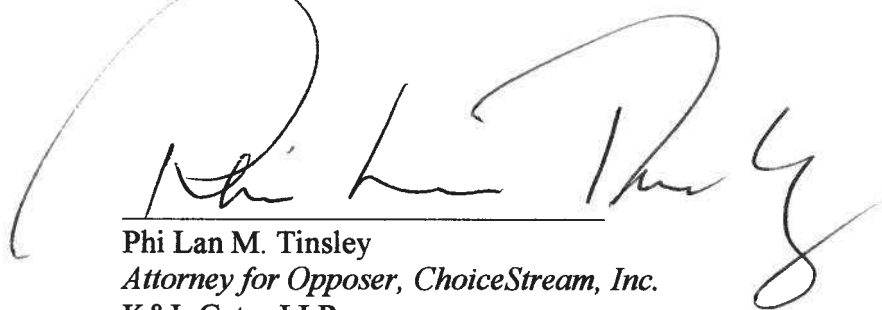
16.   Applicant's RICHRELEVANCE mark is confusingly similar to Opposer's trademark and when used on or in connection with the goods identified in the Opposed Application is likely to cause confusion, to cause mistake, or to deceive with consequent injury to Opposer, the consuming public, and the trade.

17.   Accordingly, Opposer will be damaged by the registration of the mark shown in the Opposed Application because registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered, and will give color and exclusive statutory right to Applicant in violation and derogation of the prior and superior rights of Opposer.

WHEREFORE, Opposer believes it will be damaged by the registration of Applicant's

mark and requests that this opposition be sustained and that registration of Applicant's mark

RICHRELEVANCE as shown in Application Serial No. 77/745,840 be refused.

CHOICESTREAM, INC.

Date: January 12, 2010

Phi Lan M. Tinsley
Attorney for Opposer, ChoiceStream, Inc.
K&L Gates LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2950
Phone: 617-261-3100

CERTIFICATE OF SERVICE

I do hereby certify on January 12, 2010 I filed via electronic means (ESTTA) the foregoing NOTICE OF OPPOSITION with the following:

> U.S. Patent and Trademark Office
> Trademark Trial and Appeal Board
> P.O. Box 1451
> Alexandria, Virginia 22313-1451

January 12, 2010

_____
Phi Lan M. Tinsley

CERTIFICATE OF SERVICE BY MAIL

I do hereby certify on January 12, 2010 I mailed by United States mail, first class postage prepaid, a true and correct copy of this NOTICE OF OPPOSITION to the last address known by the undersigned and the last address displayed on the United States Patent and Trademark Office TARR database, as follows:

> William E. Growney, Jr.
> General Counsel
> RichRelevance, Inc.
> 275 Battery St., Suite 1150
> San Francisco, CA 94062

January 12, 2010

_____
Phi Lan M. Tinsley

BOS-1365486 v1

EXHIBIT A

Overview

Advertising

Recommendations

eMail

Working with Us

RealRelevance

Drive new sales, increase conversion and boost loyalty with personalized recommendations that motivate consumers to take action.

RealRelevance® Advertising

Create new occasions to purchase with personalized display ads and landing pages for each consumer.

RealRelevance® Recommendations

Lift revenue throughout your store with personalized product recommendations on product detail pages, in shopping carts, on order confirmations and more.

RealRelevance® eMail

Earn more revenue from your transaction emails and marketing campaigns with personalized product promotions and next-sells.

RealRelevance Advertising

ChoiceStream RealRelevance® Advertising boosts revenue for retailers with dynamic, personalized ads that combine the in-market relevance of search marketing with the broad reach and frequency of display advertising.
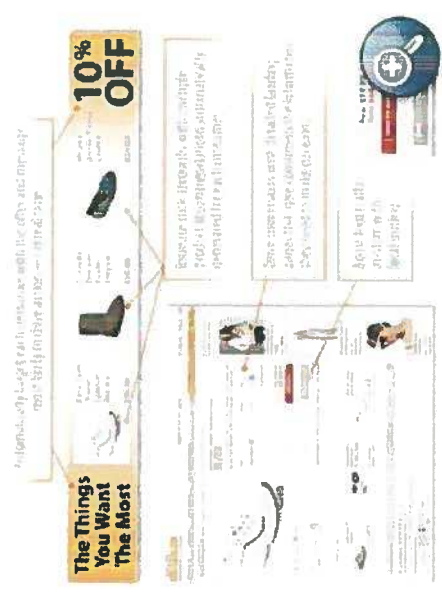
ChoiceStream ads may look similar to other ads, but only ChoiceStream ads offer personally relevant product recommendations as well as the 'one-two punch' of both personalized ads and personalized landing pages. This unique combination is proven to deliver more pre-shop engagement and more online purchases than any other dynamic ad solution on the market, increasing revenue by up to 5X.

How It Works

We use your consumer shopping data — the best predictor of future purchases — and our patent-pending personalization engine to dynamically generate ads and landing pages with personalized product recommendations for every shopper. *[It is important to note that while we do analyze consumers' shopping data, we never collect **any personally identifiable information**. So PII stays private and secure.]*

These recommendations create new occasions to purchase by combining the products shoppers are most likely to be in-market for now with individually targeted messages and offers that really resonate. And, best of all, they layer on the media you're already buying to increase the yield of your existing ad spend. Or, if you're not currently doing display advertising, we can buy your inventory for you through our relationship with OpenX.

The result is personalized ads that connect with your consumers and can be used to dramatically improve the results of all your ad campaigns, including

Overview

Advertising

Recommendations

eMail

Working with Us

Actual Customer Experience*

3-5 times increase in revenue per 1000 impressions

154% increase in click-through rate

66% increase in conversion rate

Attention Coremetrics Customers

Coremetrics

Get up and running in days without relying on IT »

Watch the ChoiceStream RealRelevance Advertising Demo ►

prospecting, retargeting and affiliate marketing.

With RealRelevance Advertising, you can:

- **Boost net new orders from retargeting campaigns by 200-300%** by creating new opportunities to purchase.
- **Acquire new customers and increase foot traffic to your stores** by promoting the products shoppers are in-market for now.
- **Advertise local prices on local inventory** to drive in-store sales.
- **Increase campaign revenue up to 5X** with the powerful combination of personalized ads and landing pages.
- **Gain the broadest possible reach** with a solution that can be run on any ad inventory or network.
- **Analyze all of your ad metrics in one place** through easy integration with 3rd-party ad servers and analytics providers.

	Behavioral Targeting Networks	Dynamic Ad Generation Tools	ChoiceStream RealRelevance Advertising
Leverage page views, clicks and browsing data	✓		✓
Leverage *commerce data* (e.g., purchases, cart abandons, and searches)			✓
Target broad-based audience categories and segments	✓		✓
Target *individuals* with personalized products, messages, and offers			✓
Offer dynamic ad generation to create personalized ads on the fly		✓	✓
Automatically traffic and manage your ads and optimize results			✓
Advertise local prices on local, in-store inventory			✓

Working with ChoiceStream

- **Advertisers**
  Get up and running in days

- **Agencies**
  Offer personalized ads with no hassle

Contact Us

ChoiceStream RealRelevance Advertising offers a whole new way to drive business online. Contact us and find out more.

Name

Company

Email

Submit

* Source: Actual results based on A/B tests comparing advertiser's best-performing display ads against ChoiceStream ads with personalized product recommendations.

RealRelevance Recommendations

Overview

Advertising

Recommendations

eMail

Working with Us

Are your display ads performing?

Join our Webinar-
Attribution: Proving Online Display Ads Drive Sales for Retailers

View this Webinar!

Key benefits include:

- **Higher conversion** on product detail pages, category pages, and more with relevant product recommendations for each consumer based on your actual shopping data.

- **Increased AOS** on shopping carts with dynamic cross-sell recommendations that go beyond simply offering complementary products (e.g., batteries with a camera purchase).

- **More successful next-sells** with personalized product recommendations on confirmation pages or emails.

- **New occasions to purchase and more revenue** from your category and home pages.

- **Improved retention** via personalized email marketing that drives shoppers back to your store.

- **Insight into what's working and why** with sophisticated, detailed reporting.

- **Best-of-breed technology** that powers more Top 50 retailers than all of our competitors combined.

How it Works

ChoiceStream analyzes your actual shopping data, including online and offline shopping data; loyalty and reward card data; email responses; 3rd party data; etc. We combine this data with our patent-pending engine to dynamically generate personalized product recommendations for product detail pages, shopping carts, search and affiliate marketing, emails and more. These personalized recommendations are proven to grab consumers' attention and motivate them to purchase.

Recommendation Manager Puts You in Control

Our web-based Recommendation Manager puts merchandising controls at your fingertips, including boosts, blacklists, defaults and overrides. And, a powerful reporting dashboard keeps you on top of what's working and why.

ChoiceStream helps more Top 50 retailers drive higher revenues with personalized product recommendations than all of our competitors combined. Let us show you how we can drive sales for you.
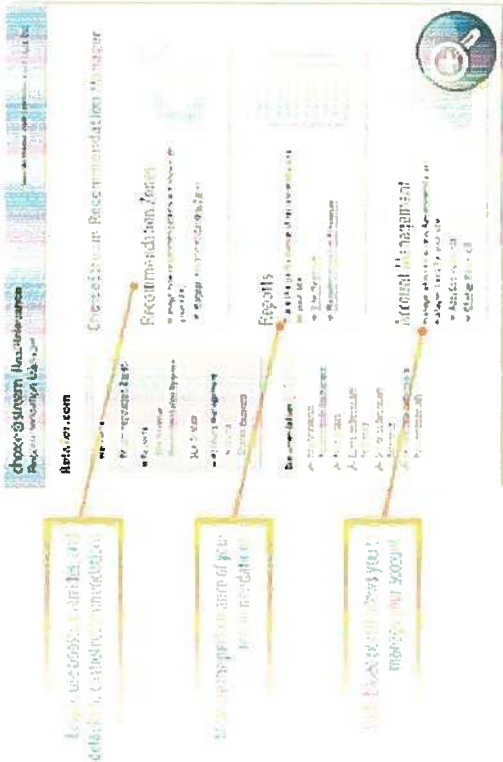
Working with ChoiceStream

It's easy to create automated, personalized marketing and merchandising throughout your site. Find out more...

Contact Us

Contact us to find out how you can drive more revenue with ChoiceStream RealRelevance Recommendations.

Name

Company

Email

[Submit]

RealRelevance eMail

Overview

Advertising

Recommendations

eMail

Working with Us

ChoiceStream RealRelevance® eMail creates new, personalized purchase opportunities that increase revenue and drive engagement.

ChoiceStream eMail enables you to deliver dynamic, personalized product recommendations in email campaigns and transaction emails. These relevant recommendations are valued by your shoppers and lift response because they are based on each shopper's individual purchase behavior and interests.

How It Works

To create personalized product recommendations that increase response, ChoiceStream uses your actual shopping data — the best predictor of future purchases — and combines it with ChoiceStream's patent-pending recommendation engine. *[Note: while we do analyze consumers' shopping data, we never collect any personally identifiable information. So PII stays private and secure.]*

You control the creative process to leverage your best-performing creative and layout. ChoiceStream takes your design and translates it into a fully functional image map that you can place directly into your email templates via a simple image tag.

The result is email marketing that drives incremental revenue and net new salesÑboth online and in-storeÑby recommending the products consumers are in-market for now.

With RealRelevance eMail, you can:

- **Deliver real-time recommendations** that ensure the best quality recommendations, from your most up-to-date catalog of in-stock items.
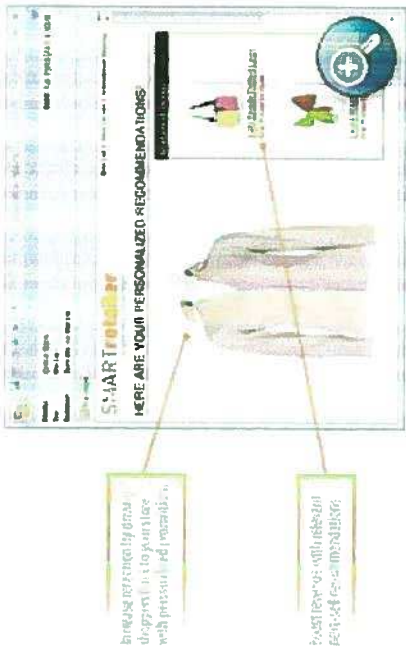
- **Create new opportunities to purchase** by adding scalable, personalized merchandising and promotions to transaction-based emails.

- **Drive foot traffic in-store** by promoting local prices and promotions available only in your bricks-and-mortar channel.

- **Improve retention** with targeted next-sell recommendations.

- **Follow up with cart abandoners** to get them back to your store.

- **Leverage your best-performing creative** as ChoiceStream translates your artwork and layout into an image map to put into your email templates via an image tag.

- **Acquire new customers** with relevant recommendations based on each prospect's browsing and click behavior.

- **Integrate easily** into any HTML-based email template including all popular email service provider solutions.

- **Access personalization solution experts** to get your campaigns up and running quickly and help you optimize them after deployment.

Reporting Shows You What Works (and What Doesn't)

ChoiceStream's analytics capabilities provide precise insights into performance by campaign, by email type and by recommendation strategy within a campaign. Below is a partial list of the metrics available:

- Impressions / Opens
- Clickthrough rate
- Conversion rate
- Revenue per thousand emails

360° Personalization for Every Interaction with Your Brand

ChoiceStream RealRelevance Solutions can be used to personalize not just email, but virtually every interaction you have with your consumers. Use them for on-site merchandising, display advertising, search marketing, affiliate marketing, online circulars and more.

ChoiceStream is the only personalization provider with hands-on experience in all these channels as we've been personalizing recommendations for major retailers like **Zappos, Tesco, Blockbuster, Overstock.com** and **Borders** for years.

Contact Us

EXHIBIT B

MASSACHUSETTS INNOVATION & TECHNOLOGY EXCHANGE   Home   Join

6th ANNUAL TECHNOLOGY AWARDS

Winners Circle   **Finalists**   **Award Cat**

View Finalists by:

[▼] OR [▼] OR [▼]

Finalists 2009

Becoming a finalist in the MITX Technology Awards is no easy feat. We are proud to recognize the innovative technology built in New England and encourage you to check out our finalists' work. Use the Sorting Fields above to view by year, category or company.

Online Advertising 2009

Project: Adroit Dynamic Display Ads
Company : Adroit Interactive

Project: RealRelevance: The Power of Personalized Display Advertising
Company : ChoiceStream

Project: Targeted content, commerce and community
Company : Emergent Discovery LLC

Project: ScanScout
Company : ScanScout, Inc.

Project: HitList from Searchandise Commerce
Company : Searchandise Commerce

Project: WordStream's Keyword Management Solution
Company : WordStream, Inc.

MASSACHUSETTS INNOVATION & TECHNOLOGY EXCHANGE   Hom

6th ANNUAL
TECHNOLOGY AWARDS   **Winners Circle**   **Finalists**   A

Winner's Profile

ChoiceStream

Contact Info

Technology Awards

**2005 - Winner - Customer Relationship
Application**
The Personalization Renaissance

Home	Winners Circle	MITX Site Development by:
Join MITX	Finalists	**The Atom Group**
About MITX.org	Award Categories	
Contact Us	The Ceremony	MITX Site CMS by:
Interactive Awards	Sponsors	**Kentico**

About ChoiceStream

Leadership

Contact Us

Careers

ChoiceStream delivers dynamic, personalized display ads, email and ecommerce product recommendations that increase purchases and customer engagement for today's biggest brands.

Since 2001, ChoiceStream has been helping major retailers such as **Overstock.com**, **Borders**, **Blockbuster**, **Tesco** and **AT&T** drive higher revenues with personalized ecommerce product recommendations. And, now we've brought this award-winning technology to other consumer touchpoints, such as online advertising where we **increase revenue by 3-5x** on existing campaigns and media buys.

Supercharge Your Marketing across All Sales Channels

ChoiceStream personalization can boost the performance of all your marketing, including display ads, email campaigns, affiliate marketing, online circulars, landing and product detail pages, shopping carts and more. We can even personalized consumers' offline shopping experience with personalized direct mail and merchandising.

ChoiceStream is the only personalization provider with hands-on experience in all these channels as we've been personalizing the consumer experience for major retailers for years.

Simply put, we deliver more uplift in more places than any other product recommendation technology on the market. It's time to give ChoiceStream a try and see the results for yourself.

EXHIBIT C

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,378,718

Registered Feb. 5, 2008

SERVICE MARK
PRINCIPAL REGISTER

RealRelevance

CHOICESTREAM. INC. (DELAWARE CORPORA-
TION)
4TH FLOOR
210 BROADWAY
CAMBRIDGE, MA 02139

FOR: PROVIDING ONLINE NON-DOWNLOAD-
ABLE SOFTWARE FOR USE BY RETAILERS AND
ONLINE ENTERTAINMENT PROVIDERS IN PRO-
VIDING GOODS AND SERVICES THAT ARE CUS-
TOMIZED TO USER PREFERENCES , IN CLASS 42
(U.S. CLS. 100 AND 101).

FIRST USE 1-29-2006; IN COMMERCE 1-29-2006.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-957,619, FILED 8-22-2006.

PATRICIA EVANKO, EXAMINING ATTORNEY

EXHIBIT D

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 3,657,301

Registered July 21, 2009

SERVICE MARK
PRINCIPAL REGISTER

RealRelevance

CHOICESTREAM. INC. (DELAWARE CORPORA-
 TION)
210 BROADWAY, 4TH FLOOR
CAMBRIDGE, MA 02139

FOR: TARGETED ADVERTISING SERVICES, NAMELY, PROMOTION OF THE GOODS AND SERVICES OF OTHERS BY MEANS OF A GLOBAL COMPUTER NETWORK; ADVERTISING SERVI-CES, NAMELY, PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING RECOM-MENDATIONS BASED ON CONSUMER'S CLICK AND PURCHASE DATA; PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVID-ING A WEB SITE AT WHICH USERS CAN LINK TO INFORMATION PERTAINING TO THE GOODS AND SERVICES OFFERED BY ADVERTISERS; DIS-SEMINATION OF ADVERTISING MATTER; DISSE-

MINATION OF ADVERTISING MATTER FOR OTHERS VIA THE INTERNET, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 1-29-2006; IN COMMERCE 1-29-2006.

THE MARK CONSISTS OF STANDARD CHAR-ACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,378,718.

SER. NO. 77-639,087, FILED 12-23-2008.

KATHERINE E. HALMEN, EXAMINING ATTOR-NEY

EXHIBIT E

richrelevance

Personalize. Recommend. Engage.

Speak<geek>
Tech Brief

THE NEW RULES OF ENGAGEMENT

The enRICH platform is a state-of-the-art solution for the next generation of eCommerce, developed by the architects of Amazon.com's recommendation technology to meet the unique needs of large scale retailers. enRICH combines the art and science of personalization into a sophisticated technology platform—powering industry leading personalization products that touch every point of the customer lifecycle—engagement, conversion and re-engagement—to drive conversion, increase revenue and build brand loyalty.

Take the {rr} Shopping Lifecycle Walk Through

Re-interception

Interception

Engagement

Technology

RichRelevance simultaneously deploys segmentation, product similarity and collaborative filtering to deliver a superior personalized user experience on a retailer's website – and beyond.

Ensemble Learning:

The enRICH platform is the first commercial application of Ensemble Learning. The approach is the only one that facilitates competition among 40 independent algorithms (recommendation types), wherein each makes use of different kinds of user behavior and catalog data. The enRICH platform then decides, in real time, which algorithm is best matched to a particular customer's needs at a specific place and time. In contrast, most recommendation systems leverage one highly complex algorithm for use across the entire customer base.

Personalization and wisdom of the crowds:

enRICH doesn't just depend on the wisdom of the crowds to make recommendations relevant to each customer. We also consider current and recent site activity in our recommendations, so that we serve as a real-time aid in the customer's discovery process.

Frequent re-modeling (10-15 times a day):

This means that any products recommended via the enRICH platform reflect the latest changes in inventory, merchandising, customer behavior trends, and more.

Adaptive learning:

RichRelevance's response time to real-time intent and customer microtrends is unparalleled in the industry. As customers interact with recommended products, RichRelevance's built-in feedback loops inform the system about the performance of products and recommendation types.

Integration:

The enRICH platform enables retailers to integrate data from offline transactions with existing data on individual and group behavior in order to deliver more relevant recommendation types and content. The platform can also be integrated with marketing tools like email, site navigation, ratings and reviews, and more.

Extensible platform:

RichRelevance is the only vendor to provide third-party developers with access to the data and technology necessary to create new applications that leverage consumer behavior to innovate groundbreaking new eCommerce products. Zugara, for example, has used the enRICH platform to create an augmented reality fitting room that allows shoppers to navigate through a personalized, taste-based view of clothing selected just for them. This introduces limitless possibilities for mobile and social networks that require user-based filtering and display of product catalog or ad inventories.

Industry Leading IT Infrastructer Supports Total Reliability

The design of enRICH's delivery platform is the result of collaboration between some of the industry's brightest minds—responsible for building the corporate delivery infrastructures for Qualcomm, Akamai, and

Hotmail, as well as key technologies at Amazon and Overstock. The recent winner of the 2009 Intel Premier IT Knowledge Awards for innovation, RichRelevance runs six state of the art, fully redundant and geographically load-balanced data centers to ensure the enRICH platform has 100% uptime and delivers blazing fast recommendations, even during peak traffic. On the peak hour of the peak day last holiday season, we used only 25% of our capacity.

RichRelevance Dashboard

Merchandiser Controls

While the enRICH platform does all the hard work—automatically personalizing each customer's shopping experience with relevant recommendations—you, the merchandiser, have the power to control how and when items are featured by any of the enRICH products. The RichRelevance Dashboard allows merchandisers to achieve specific business objectives for individual products, brands, categories and page types, thereby "tuning" the enRICH Platform to optimize for revenue, conversion and profit. For example, retailers can easily account for high margin products, excess inventory, blackouts, product pairings, etc.

Analytics

The enRICH platform's unique architecture enables us to provide merchants with immediate, tangible feedback. Our enterprise-class site analytics tools provide precise insights into website traffic and the effectiveness of enRICH products on a retailer's site. Modeled after industry leading analytics interfaces, the tools integrate easily with any web analytics platform. The user-friendly panel offers filtering options, graphs to visually identify trends, and easy export of reports in Excel format.

{rr} richrelevance

Personalize. Recommend. Engage.

Case Studies

Brought to You from our Amazon Experts

Innovated by the former architect of Amazon's personalization strategy, RichRelevance has created a suite of six product offerings, the broadest and most scalable solution set in the industry today. RichRelevance serves more than 200 million personalized recommendations each day through a product suite with the ability to influence consumers at each stage of the buying cycle.

Built on the enRICH platform, each product is supported by merchandiser controls, a pay-for-performance business model and analytics tools that integrate easily with any web analytics platform.

Lift core KPIs by increasing engagement, driving repeat visits and building brand loyalty.

Engage your customer from the moment they arrive on your site and keep engaging them as they move through key pages of your site—all the way to purchase completion. RichRecs™, a fully hosted (SaaS) solution, recommends products based on a customer's specific behaviors and attributes. The more your customer shops and explores, the more recommendations adjust—dynamically upselling and cross-selling merchandise related to not just his/her current activity but numerous shopping behaviors, such as past purchases, browsing history and more. RichRecs thus creates personalized and intuitive navigation for shopper, enabling faster product discovery for your customer and increased conversion, sales and brand loyalty for you.

Download the RichRecs Product Overview

EXHIBIT F

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No.: 77/745,840
For the mark: RICHRELEVANCE
Published in the Official Gazette on September 22, 2009

ChoiceStream, Inc.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.
	)	
RichRelevance, Inc.	)	
	)	
Applicant.	)	
	)	

AFFIDAVIT OF DOUG FEICK

I, Doug Feick, do hereby state as follows:

1.   I am the EVP, Business Affairs and General Counsel ChoiceStream, Inc. of the Opposer ChoiceStream, Inc. ("Opposer" or "ChoiceStream"). I have personal knowledge of the facts herein.

2.   I make this affidavit in connection with, and in support of ChoiceStream's opposition to the registration of the mark RICHRELEVANCE as shown in the above-identified Trademark Application Serial No. 77/745,840 ("Opposed Application"), filed May 27, 2009 by RichRelevance, Inc. ("Applicant").

3.   ChoiceStream, Inc. is a corporation organized and existing under the laws of Delaware, located at 210 Broadway Street, Cambridge, Massachusetts 02139. ChoiceStream is in the business of creating, marketing, distributing and selling customized cross-marketing and advertising technology and services to optimize retailers' online sales and e-commerce sites.

4.   ChoiceStream owns the registered trademark REALRELEVANCE®, Registration No. 3,378,718, in International Class 42 for "providing online non-downloadable software for use by retailers and online entertainment providers in providing goods and services that are customized to user preferences." This registration, with a date of first use in commerce of January 29, 2006 was granted by the United States Patent and Trademark Office on February 5, 2008.
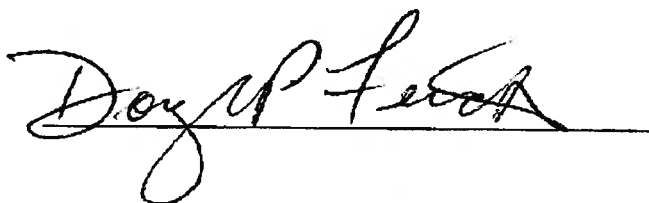
5.   ChoiceStream has received industry recognition and awards for its innovative and revolutionary advertising and marketing technology. In 2005, ChoiceStream won the Massachusetts Innovation and Technology Exchange ("MITX") for Customer Relationship technology for its innovative one-to-one personalization and recommendation technology. Also in 2009, ChoiceStream was again recognized by MITX for its REALRELEVANCE® targeted advertising product which creates personalized display ads and landing pages for each consumer. As a result of the ChoiceStream's distribution and promotional efforts, and by virtue of the excellence of the products and services sold under the REALRELEVANCE® mark and the valuable reputation and goodwill associated with the mark, the REALRELEVANCE® mark is well known in the United States.

6.   I am familiar with certain key personnel of the Applicant, RichRelevance, Inc. In particular, David Selinger, Applicant's Chief Executive Officer and Co-Founder, and Tyler Kohn, Applicant's Vice President of Engineering and Co-Founder were both paid consultants with ChoiceStream. Selinger and Kohn assisted in developing cross-marketing technology and services for ChoiceStream during the period of August 2006 through May 2007. Both Selinger and Kohn were exposed to ChoiceStream's products and services created, marketed, distributed and sold in interstate commerce under the trademark REALRELEVANCE®.

7.   On or about November 2008, January 2009, February 2009, and October 2009, I had discussions with Selinger, Todd Pearson, Applicant's Chief Customer Officer, and/or Bill Growney, Applicant's General Counsel, by telephone to discuss the strong likelihood of confusion between the REALRELEVANCE® trademark and the mark RICHRELEVANCE in the Opposed Application. In particular, we discussed the potential for injury and confusion to ChoiceStream given that Applicant markets and sells products and services under the opposed mark RICHRELEVANCE to the same customers and industries as those who purchase and/or use the products under the mark REALRELEVANCE®.

8.   It is my belief that Applicant's trademark application for the mark RICHRELEVANCE is confusingly similar to ChoiceStream's trademark and when used on or in connection with the goods identified in the Opposed Application is likely to cause confusion, to cause mistake, or to deceive with consequent injury to ChoiceStream, the consuming public, and the trade.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS _//_ DAY OF JANUARY 2010.

Doug Feick

BOS-1365475 v1

3

EXHIBIT G

NOTICE OF PUBLICATION UNDER §12(a)
MAILING DATE: Sep 2, 2009
PUBLICATION DATE: Sep 22, 2009

The mark identified below will be published in the Official Gazette on Sep 22, 2009. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Certificate of Registration. To view the Official Gazette online or to order a paper copy, visit the USPTO website at http://www.uspto.gov/web/trademarks/tmog/ any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at http://bookstore.gpo.gov or 202-512-1800. To check the status of your application, go to http://tarr.uspto.gov/.

SERIAL NUMBER: 77745840

MARK: **RICHRELEVANCE**

OWNER: **RichRelevance, Inc.**

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